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January 30, 2008

## FEDERAL EXPRESS

Honorable P. Kevin Castel  
United States District Court Judge  
Daniel Patrick Moynihan United States Courthouse  
500 Pearl Street – Room 2260  
New York, New York 10007

USDS SDNY  
DOCUMENT  
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Re: Bank of New York v. First Magnus Capital, Inc. and Thomas W. Sullivan, Sr.,  
As Trustee of the Thomas W. Sullivan Sr. Revocable Trust  
U.S. District Court # 07 CV 8255 (PKC) (JCF)

Judge Castel:

Kucker & Bruh, LLP ("K&B") represents defendant Thomas Sullivan, Sr. I prepared this letter with permission of Kenneth Roberts (of Wolf, Block, Schorr and Solis-Cohen LLP, attorneys for plaintiff Bank of New York ["BNY"]) and Christopher Bayley (of Snell & Wilmer L.L.P., attorneys for defendant First Magnus Capital, Inc. ["FMCI"]) as a joint request for a slight amendment of the existing schedule for the taking of depositions, and subsequent filing of a motion to dismiss for alleged lack of New York personal jurisdiction over Mr. Sullivan, previously authorized by Your Honor.

The existing schedule was cited in a January 16, 2008 letter by Mr. Roberts which Your Honor approved on January 22, 2008 (copy enclosed). Among other things, this schedule provided for the jurisdictional deposition of Thomas Sullivan, Sr. by February 8, 2008. With this in mind, the parties scheduled his deposition for January 31. However, the three attorneys subsequently learned the two other witnesses the bank intends to depose were not available on January 31 or contemporaneous days. In order to schedule the jurisdictional deposition of Mr. Sullivan and the other two depositions on contemporaneous dates which also did not conflict with the schedule of the attorneys it became necessary to plan the three depositions for February 19 and 20, 2008, respectively. These are 12 days beyond the existing deadline. Accordingly, the parties agreed to request the deadline for K&B's filing of a Rule 12(b)(2) motion also would be extended by a similar period of time. Accordingly, the parties respectfully request the following amended schedule, and ask Your Honor please to "So Order" it:

2/20/08 Deadline to take Sullivan's jurisdictional motion  
3/14/08 Deadline for Sullivan to file motion to dismiss for lack of personal jurisdiction  
3/28/08 Deadline for BNY to file opposition  
4/04/08 Deadline for Sullivan to file reply

*Revised schedule is  
approved. SO ORDERED  
[Signature] USDT  
2-4-08*

**Kucker & Bruh, LLP**

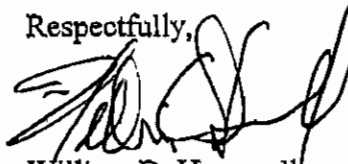
Honorable P. Kevin Castel

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Thank you for your consideration.

Respectfully,



William D. Hummell

cc: By Electronic Transmittal, and Regular U.S. Mail

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